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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,331	03/01/2000	Satoshi Yoshizawa	16869C-54US	3731
7590 07/26/2004			EXAMINER	
George B F Yee			PIZARRO, RICARDO M	
Townsend and Townsend and Crew LLP				
Two Embarcadero Center			ART UNIT	PAPER NUMBER
8TH Floor			2661	В
San Francisco, CA 94111-3834			DATE MAILED: 07/26/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/516,331	YOSHIZAWA ET AL.				
Office Action Summary	Examiner	Art Unit				
	Ricardo M. Pizarro	2661				
The MAILING DATE of this communication Period for Reply	appears on the cover sheet with	h the correspondence address				
A SHORTENED STATUTORY PERIOD FOR RE THE MAILING DATE OF THIS COMMUNICATIO  - Extensions of time may be available under the provisions of 37 CFF after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a  - If NO period for reply is specified above, the maximum statutory per  - Failure to reply within the set or extended period for reply will, by state of the communication of the communication of the period for reply within the set or extended period for reply will, by state of the communication of the communi	N. R 1.136(a). In no event, however, may a report of the statutory minimum of thirty riod will apply and will expire SIX (6) MONTH atute, cause the application to become ABA	ply be timely filed  (30) days will be considered timely.  HS from the mailing date of this communication.  NDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 0.	3 May 2004.					
2a)⊠ This action is <b>FINAL</b> . 2b)□ T	This action is <b>FINAL</b> . 2b) This action is non-final.					
3) Since this application is in condition for allo	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice unde	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)⊠ Claim(s) <u>1-57</u> is/are pending in the applicat	Claim(s) <u>1-57</u> is/are pending in the application.					
4a) Of the above claim(s) is/are without	4a) Of the above claim(s) is/are withdrawn from consideration.					
5)⊠ Claim(s) <u>41-50</u> is/are allowed.	☑ Claim(s) <u>41-50</u> is/are allowed.					
6)⊠ Claim(s) <u>1-40, 51-57</u> is/are rejected.	☑ Claim(s) <u>1-40, 51-57</u> is/are rejected.					
7) Claim(s) is/are objected to.	Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction an	Claim(s) are subject to restriction and/or election requirement.					
Application Papers						
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for fore a) All b) Some * c) None of:  1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the papplication from the International Bur	ents have been received. ents have been received in Appriority documents have been recau (PCT Rule 17.2(a)).	plication No received in this National Stage				
* See the attached detailed Office action for a  Attachment(s)	list of the certified copies not re	eceived.				
1) Notice of References Cited (PTO-892)	4) 🔲 Interview Su	immary (PTO-413)				
2) 🔲 Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)	/Mail Date				
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/Paper No(s)/Mail Date	/08) 5)	ormal Patent Application (PTO-152) -				

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## **FINAL ACTION**

## Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gai. US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, comprising a data delivery system having a data server (222 in Fig. 2) in data communication with plural devices (i.e. 212 and 214 in Fig. 2), a method of changing current network device attribute of a target device comprising transmitting first information (start up message 410, col 7 lines 65-67, col 8 lines 1-9) from said data server to said target network device, said first information comprising at least one network device attribute(application identifier attribute), storing said network device attribute in said target device (Program 224 in Server 222 causes component 226 lo load information in end station 212, col 8 lines 53-58), transmitting

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second information from said data server to said target device (flow declaration component may return the set up message 414) and in response to receiving said second information changing said current attribute in accordance with said new device attribute (component 226 may rewrite attributes, col 17 lines 66-67, col 18 lines 1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 1; wherein said attribute is a QOS setting (col 8 lines 10-12), as in claim 2; said first information includes an address of said target device (said attribute is a globally unique identifier i.e. address, col 8 line 5) as in claim 3; transmitting said second information in form of a data packet destined for a client (col 16 lines 28-30), as in claim 4; incorporating said first information in a data packet destined to a client (assuming packets correspond to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30), as in claim 8; incorporating said first information in a data packet that is not destined to a client (col 16 lines 28-30), as in claim 9.

## Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 10-12, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai.

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US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein in a data delivery system having a data server (222 in Fig. 2) in communication with plural network devices (i.e. 212 and 214 in Fig. 2), a method of changing OOS (one of the argument is QOS, col 8 lines 10-12) of a target device comprising transmitting first information from said data server to said target network device (start up message 410, col 7 lines 65-67, col 8 lines 1-9) and comprising at least an attribute, storing parameter in said target device (Program 24 in Server 222 causes component 226 lo load information in end station 212, col 8 lines 53-58), transmitting second information from said data server to said target device (flow declaration component may return the set up message 414) and in response changing said attribute in accordance with said stored parameter, as in claim 10; said first information includes an address of said target device ( said attribute is a globally unique identifier i.e. address, col 8 line 5), as in claim 11; incorporating said second information in a data packet destined to a client (col 16 lines 28-30), as in claim 12; incorporating said first information in a data packet destined for a client (assuming packets correspond to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30), as in claim 16; incorporating said first information in a data packet that is not destined for a client (col 16 lines 28-30), as in claim 17; accumulating a list of plural entries in said target device, each entry including an attribute parameter, as in claim 18; said first information is a list of plural entries (Fig. 5B), as in claim 19; changing said attribute includes indexing into said list on the basis of said index( different service policies in Fig. 5B), as in claim 20.

Gai did not specifically said first information being a new QOS, as in claim 10.

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that one of the arguments in program 224 to be transmitted as a flow to the devices is a QOS argument (col 8 lines 10-12), said attribute could also possibly be a new QOS with the motivation of obtaining a system wherein traffic flows can be managed according to corresponding policies.

5. Claims 21-30, 51-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai.

US patent No. 6.651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein a data server (data server 222 in Fig. 2) configured to transmit data packets to a network, at least one network device configured to receive and transmit said packets, said data server configured to transmit a first information to said device (start up message 410, col 7 lines 65-67, col 8 lines 1-9), said information representing a setting of said device and comprising at least one QOS parameter, said device having a memory, said data server configured to transmit second information to said device, said device configured to change its setting in accordance with said first information in response to receiving said second information (component 226 may rewrite attributes, col 17 lines 66-67, col 18 lines 1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 21; said second information is incorporated into a data packet for a client (col 16 lines 28-30), as in claim 22; said device configured to change QOS prior to forwarding said packet, as in claim 23; said device configured to change QOS after forwarding said packet, as in claim 24; said second information incorporated in said packet and not destined for a client, as in claim 25; said first information is incorporated in said a packet destined for a client (assuming packets correspond to flow from

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program 24 to end station 212 in Fig. 2, col 16 lines 28-30), as claim 26; said first information is incorporated in said packet not destined for a client (col 16 lines 28-30), as in claim 27; said memory configured to contain a list of QOS setting, as in claim 28. In a data server configured for delivering data to a client over a network having one or more devices, comprising communicating first information ( start up message 410, col 7 lines 65-67, col 8 lines 1-9) to at least one target device(i.e. device 212 in Fig. 2), said first information representing an attribute comprising one or more parameters, producing a first data packet to said device, wherein said device respond by setting its attribute in accordance with said information ( component 226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 51; said information is a list of plural entries having one or more QOS parameters, as in claim 52; said list containing plural entries, each entry containing a QOS parameter (different service policies in Fig. 5B), as in claim 53; said first data packet includes data destined for a client ( col 16 lines 28-30), as in claim 54.

Gai did not specifically said setting being a QOS setting, as in claims 21 and 51.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that one of the arguments in program 224 to be transmitted as a flow to the devices is a QOS argument (col 8 lines 10-12), said attribute could also possibly be a new QOS with the motivation of obtaining a system wherein traffic flows can be managed according to corresponding policies.

6. Claims 31, 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai.

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US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein in a network device (Computer device 212 in Fig. 2), a method of setting QOS comprising acquiring at least one QOS parameter from an external source (source being server 222 in Fig. 2), receiving data packets of a first type (start up message 410, col 7 lines 65-67, col 8 lines 1-9) which are to be transmitted from said device and a second type (flow declaration component may return the set up message 414) which are to be retained within said device, for each received data packet inspecting it for information of a first kind and in response to said information setting said attribute (component 226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 31; said information of said first kind is contained in a packet of a second kind (col 16 lines 28-30), as in claim 34; extracting said QOS parameter from a received packet, as in claim 35; QOS parameter is contained in a data packet of a first kind, as in claim 36; QOS parameter is contained in a data packet of a second kind, as in claim 37; a list of plural entries, each containing a QOS parameter (Fig. 5B), as in claim 38; said list containing plural entries, each entry containing a QOS parameter (different service policies in Fig. 5B), as in claim 39.

#### Allowable Subject Matter

7. Claims 41-50 are allowed.

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8. Claims 5-7, 13-14, 32-33, 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

#### Conclusion

9. Applicant's arguments filed 0n 5/3/04 have been fully considered but they are not persuasive. Applicant argues that Gai fails to disclose transmission of first information from a data server to a target device of at least one network device attribute. Examiner does not agree since Gai discloses issuing said first information as a start up message 210 as part of the communication i.e. -transmission - of application program 224 from server 222 to end station –i.e. target device - 212 ( col 7 lines 65-67, col 8 lines 1-10, col 9 lines 18-21) comprising at least one network device attribute –i.e. application identifier attribute-.

Further applicant argues that Gai fails to disclose storing said attribute in said target device. Examiner disagrees since Gai discloses Program 224 causing flow declaration component 226 to load –i.e. store- the corresponding traffic flow data structure at end station –i.e. target device- 212 ( col 8 lines 53-58).

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

## 11. Any response to this final action should be mailed to:

#### **Box AF**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

#### or faxed to:

(703) 872-9314

(for formal communications; please mark "EXPEDITED PROCEDURE", for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is **(703) 305-1121.** The examiner can normally be reached on Monday-Thursday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

July 24, 2004

Ricardo M. Pizarro

(EMNETH VANDERPUYE PRIMARY EXAMINER